

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JIMMY AVILA,

Plaintiff,

-against-

SUN RIVER HEALTH, INC., et al.,

Defendants.

22-CV-9254 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is proceeding *pro se*, brings this action under the Americans with Disabilities Act of 1990, 42 USC § 12112, *et seq.*, and the Rehabilitation Act of 1973, 29 U.S.C. § 794, alleging that Defendants discriminated against him on the basis of his disability. For the reasons set forth below, the Court dismisses this action.

Plaintiff has previously submitted to this court an identical complaint in which he asserted the same claims against the same defendants. That action is presently pending in this court under docket number 22-CV-9221. Because this complaint is identical to the one in that action, no useful purpose would be served by litigating this duplicative action. The Court therefore dismisses this complaint as duplicative, without prejudice to Plaintiff's pending case under docket number 22-CV-9221.

**CONCLUSION**

The Court dismisses this action without prejudice as duplicative of the case under docket number 22-CV-9221. All other pending matters in this action are terminated. The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment in this case.

Dated: February 9, 2023  
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN  
Chief United States District Judge